

MINUTES

for approval on 01/24/2022

01/03/2021 – Regular Meeting

**Middleboro Board of Selectmen
Meeting Minutes**

January 03, 2022

Chairman Dalpe opened the meeting at 6:35 PM.

In attendance were: Selectmen L. Dalpe, A. Battistini, N. Demers, M. Germain and N. Rosenthal. Also present was Town Manager, R. Nunes and Executive Assistant, Colleen Lieb.

This meeting was recorded by MCCAM for broadcast on Comcast and Verizon.

EXECUTIVE SESSION

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted to enter into Executive Session to return to Open Session to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel (GMEG). Polled Vote: Selectmen L. Dalpe - Aye, A. Battistini - Aye, N. Demers - Aye, M. Germain - Aye and N. Rosenthal - Aye.

The Board returned to Open Session at 6:44 PM.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to place the Veteran's Agent Position at the Technical Services Step Two.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted to enter into Executive Session, to return to Open Session, under G.L. 30A, §21(a)(6) to consider the purchase, exchange, lease or value of real property if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body – the parcels of land located on West Grove Street, identified by the Assessors as Parcel 048-3042, Parcel 048-03832, and Parcel 048-3165. Polled vote: Selectmen L. Dalpe - Aye, A. Battistini - Aye, N. Demers - Aye, M. Germain - Aye and N. Rosenthal - Aye.

The Board returned to Open Session at 7:04 PM.

Upon motion made by Selectmen Battistini and seconded by Selectmen Germain, the Board voted unanimously to authorize KP Law to prepare a Request for Proposal (RFP) for the sale of Town Property in Exchange for land with water source and contingent on Town Meeting approval.

Chairman Dalpe asked those in attendance to join her in the Pledge of Allegiance.

UNANTICIPATED

There is nothing discussed.

ANNOUNCEMENTS AND RECOGNITIONS

There is nothing discussed.

WARRANTS

Upon motion made by Selectmen Germain and seconded by Selectmen Demers, the Board voted unanimously to authorize the Chair or her designee to sign the Warrants for week ending 1/8/2022.

NEW BUSINESS

Discuss Feedback on Farland Estates with Residents and Letter to MassDevelopment

Chairman Dalpe explained that the discussion is to hear feedback from residents and Departments in regard to the proposed 40B project on property known as Farland Estates. Leeann Bradley, Planning Director, spoke to the Board about the long history of this property and the various attempts developers have made over the years to make the project work. The latest as an approval for a 27 lot subdivision that was reviewed and approved by the Planning Board. The project has now changed into a 40B proposal with 123 units on 83 lots. There is reference to the correspondence received by multiple residents. There is also reference to a letter received from The City of New Bedford in regard to water issues. It is noted that the Town did adopt the 40R district, which is supposed to allow the Town to have more control over where 40B projects are located.

Ed Mederios, speaking as a resident, went through the long history of property, going back to the first filing of a 38 lot subdivision called HBO in 1985 all the way through to the latest project proposed on the property as Farland Estates. He expresses his biggest concern which is that this project is going to destroy his cranberry bog.

Chairman Dalpe discloses that she does own a home on Marion Road but that she is not within the 300ft of the project. Chairman Dalpe opens the discussion up for comments from the Board.

The Board expresses their concerns over the proposed 40B project. There is reference to the WRPD Zone 2 and how the Assawompset Complex supplies the City of New Bedford and essentially this is septic on top of a water supply. The Board considers taking a vote to send a letter opposing the project and include the Town's efforts towards meeting the 10% requirement through the new 40R district. There is discussion on the environmental issues, in addition to the added number of vehicles that will be going up and down the road. The Board discusses having KP Law draft a letter incorporating all the concerns discussed. Chairman Dalpe opened the hearing up for comments from the public.

Thomas Slater, 180 Marion Road, spoke about this concerns regarding the project. It is noted that he did provide a letter to the Board of Selectmen. He encourages the Board to reach out to DEP and ask them for a letter regarding the project. Chairman Dalpe confirms that the Town will make sure to include all the key points in their letter to MassDevelopment.

Mike Pilla, 47 Walnut Street, noted that he is not a direct abutter but expressed concern about the wetlands, existing uprooted trees, vehicle traffic and road surface issues, which are noted in the letter he submitted.

There is a reading of the City of New Bedford letter, dated January 3, 2022 from Jamie Ponte, Commissioner regarding Farland Estates II, Assessors Map 86, Middleborough, MA.

Brian Giovanoni, Rocky Meadow Street, expressed his concerns in regard to the Farland Estate project and provided a written copy of the concerns to the Board.

Paul Rennie, 70 Walnut Street, spoke about this concerns with the project and also referenced his letter that he sent into the Board.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to have KP Law compile a letter to send to the State Agencies and incorporate all the written comments and spoken concerns of the Farland Estates 40B project to be signed by the Board of Selectmen.

Vote Chapter 61A Rights on Remaining Picone Property

Shirin Everett – KP Law and Patricia Cassady, Conservation Agent, were present for the discussion. P. Cassady provided an update for the Conservation Commission. It is noted that the environmental site assessment is done and the title exam is coming. The appraisal is up next to be conducted with the Commission to vote on the appraiser at their upcoming meeting. S. Everett explained to the Board the vote that is needed to be taken on the remaining parcels of the Picone Chapter 61A.

Upon motion made by Selectmen Germain and seconded by Selectmen Battistini, the Board voted unanimously that pursuant to G.L.c. 61A to exercise the Town's Right of First Refusal to purchase the parcels of land identified by the Assessor as Parcels 041-466, 031-6082, 031-5272, 031-4447 and 031-3687, and to execute a Notice of Exercise of Right of First Refusal and a purchase and sale agreement with the sellers, which purchase shall be contingent on Town Meeting authorization and appropriation.

Special/Annual Town Meeting April 25, 2022

Dave Cavanaugh, Town Moderator, is present for the discussion. D. Cavanaugh asked the Board to consider the suggestion of advertising in the warrant that since the meeting is being held in a school building face masks will be required. The Town Manager will make sure it is added to the warrant.

Upon motion made by Selectmen Germain and seconded by Selectmen Battistini, the Board voted unanimously to open the Special and Annual Town Meeting Warrants to be held on April 25, 2022 and to close the Warrant on March 11, 2022

HEARINGS MEETINGS AND LICENSES

Variance Request - Submitted by Foresight Engineering, for a reduction of the setback of the proposed septic tank from the property line from 10' to a minimum of 5' per 310CMR Section 15.405(1)(a) and for a reduction of the setback of the proposed leach field from the property line from 10' to a minimum of 5' per 310 CMR Section 15.405(1)(a) for property located at 7 Short Brook Ave

Darrin Michaelis, Foresight Engineering, Jacob Braley, Property Owner and Kayla Smith, Health Officer, was present for the discussion. Chairman Dalpe read into the record the legal notice and opened the hearing.

D. Michaelis explained the variance request for 7 Shortbrook Avenue. They are requesting a reduction of the setback of the proposed septic tank from the property line from 10' to a minimum of 5' per CMR Section 15.405(1)(a) and a reduction of the setback of the proposed leach field from the property line from 10' to a minimum of 5' per 310CMR Section 15.405(1)(a). It is noted that both requests are required due to the limited area on the existing lot for the new septic system and new well since the property was divided at time of sale and the existing leaching system is actually on abutting property.

Chairman Dalpe opens the hearing up for comments from the Board. There is discussion on the legality of the separation of the properties that was done by the bank. There is discussion on the request, which is considered a repair to the existing system. It is asked if the owner is going to be occupying the house. Mr. Braley, Owner, spoke to say that he will be using the property as a rental and that he will not be living there. The Board further discusses the property small size and the hardship or lack thereof. There is a brief discussion on a de-nitrogen system. It is suggested that nitrates can be tested for three years to make sure that there isn't contamination.

Upon motion made by Selectmen Germain and seconded by Selectmen Battistini, the Board voted to grant the variance of a reduction of the setback of the proposed septic tank from the property line from 10' to a minimum of 5' per 310 CMR Section 15.405(1)(a) and a reduction of the setback of the proposed leach field from the property ty line form 10' to a minimum of 5' per 310CMR Section 15.405(1)(a). Motion Carries. 3-2-0 (Selectmen Dalpe and Selectmen Germain against.)

Variance Request – Submitted by Zenith Consulting Engineers, LLC, for local upgrade approvals and variance from the provisions of 310 CMR 15.00 Title V for property located at 11 Smith St. *Kayla Smith, Health Officer, was present for the discussion.* Chairman Dalpe read into the record the legal notice and opened the hearing.

K. Smith explained to the Board that this variance was approved by the "Interim" Health Officer and that the failure breakout to groundwater happens sometimes so the Health Officer has to make an emergency approval to allow the variance so that the hazardous situation can be corrected as quickly as possible and not wait until the Board's next scheduled meeting. K. Smith noted that even though this was done under emergency circumstances, it still should be brought to the Board to ratify the approval.

Chairman Dalpe asked if the Board had any questions. There are no questions. Chairman Dalpe asked if there are any questions from the public. There are no questions.

Upon motion made by Selectmen Germain and seconded by Selectmen Demers, the Board voted unanimously to close the hearing.

Upon motion made by Selectmen Battistini and seconded by Selectmen Demers, the Board voted unanimously to ratify the April 13, 2021 Health Officer's local upgrade approval as follows:

1. Increase in the maximum allowable depth of the septic tank from 36" to 72" below finish grade per 310 CMR 15.405(1)(b).
2. Reduction of the required setback between the proposed leaching field and existing tributary to a surface water supply from 200' to 120' per 310 CMR 15.405(1)(g)
3. Reduction of the required setback between the proposed septic tank and existing tributary to a surface water supply from 200' to 130' per 310 CMR 15.405(1)(g).
4. Reduction of the required number of deep holes per disposal area from 2 to 1 per 310 CMR 15.405(1)(k)

TOWN MANAGERS REPORT

Robert Nunes, Town Manager, reviewed the Town Manager's Report. The report covered December 13, 2021 through December 29, 2021.

REPORT ON COMMITTEE COMMISSIONS & BOARDS

There is nothing reported.

CORRESPONDENCE

Selectmen Battistini asked if the Town has received a response from Counsel regarding the CPI issues. R. Nunes noted that both KP Law and Sugarman & Rogers will be present at the Board's next meeting to discuss it.

ADJOURNMENT

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to adjourn at 8:30 PM.

Respectfully submitted by,

Colleen M. Lieb, Executive Assistant
MIDDLEBOROUGH BOARD OF SELECTMEN

MINUTES

for approval on 01/24/2022

01/06/2021 – Regular Meeting

**Middleboro Board of Selectmen
Meeting Minutes**

January 6, 2022

Chairman Dalpe opened the meeting at 5:00 PM and asked those in attendance to join in the Pledge of Allegiance.

In attendance were: Selectmen L. Dalpe, A. Battistini, N. Demers, M. Germain and N. Rosenthal. Also present was Town Manager, R. Nunes and Executive Assistant, Colleen Lieb.

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HEARINGS MEETINGS AND LICENSES

NEW HEARING – Chapter 61A - Picone

Shirin Everett, KP Law, and Patricia Cassady, Conservation Agent, were present for the discussion. Chairman Dalpe reads the public hearing notice and opens the hearing. S. Everett explained to the Board that this is a vote to confirm and ratify the vote that was taken at the Board's January 3, 2022 meeting, which was to exercise the right of first refusal on the Picone property. P. Cassady spoke to the Board about the 10 acer house lot and asks to get a co-census from the Board as to their interest in the house lot. It is noted that the house can be leased after or it can be sold.

Richard Picone, spoke to the Board about the hope that the Town would be willing to take the house property. He feels that it should go with the property and not be separated out.

S. Everett confirms that the purchase and sale agreement the Board is signing this evening does include the purchase of the house lot. The Board agrees that they support the Town purchasing the entire property, including the house lot.

Upon motion made by Selectmen Germain and seconded by Selectmen Demers, the Board voted unanimously to close the hearing.

Upon motion made by Selectmen Germain and seconded by Selectmen Demers, the Board voted unanimously to Vote to exercise the right of first refusal held by the Town to purchase (a) the parcel of land described in Certificate of Title No. 85497, shown as Lot 2 on Land Court Plan No. 19298B, and identified by the Assessors as Parcel 041-466, and (b) the parcels of land described in Certificate of Title No. 73660, and identified by the Assessors as Parcel 031-6082, 031-5272, 031-4447, and 031-3687, and to confirm and ratify the vote taken by the Board of Selectmen on January 3, 2022, exercising said right of first refusal.

ADJOURN

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to adjourn at 5:25 PM.

Respectfully submitted by,

Colleen M. Lieb, Executive Assistant
MIDDLEBOROUGH BOARD OF SELECTMEN